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Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-10
L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15 ICA-11
TRSE-00 OMB-01 AID-05 PC-01 HA-05 IO-13 MCT-01
/094 W
----------009057 091907Z /72
P R 091723Z JUN 78
FM AMEMBASSY SANTO DOMINGO
TO SECSTATE WASHDC PRIORITY 4515
INFO AMEMBASSY CARACAS
AMEMBASSY PORT AU PRINCE

C O N F I D E N T I A L SECTION 1 OF 2 SANTO DOMINGO 3171

E.O. 11652: GDS
TAGS: PINT, PEPR, PINS, DR
SUBJECT: LEGAL BATTLE OVER ELECTORAL RESULTS CONTINUES

REFS: SANTO DOMINGO 3101; SANTO DOMINGO 3052

1. IF THE TEMPORARY REMOVAL OF CENTRAL ELECTORAL BOARD (JCE) CHAIRMAN CASTILLO (REFTELS) APPEARD TO BE A VICTORY FOR THE REFORMIST PARTY IN ITS EFFORT TO CHALLENGE LEGALLY THE RESULTS OF THE MAY 16 ELECTION, THIS EFFORT SUFFERED A SET-BACK DURING COURSE OF THIS WEEK AS A "SCANDAL" DEVELOPED OVER AN ALLEGED ATTEMPT TO FALSIFY THE ELECTION LAW.

2. REFORMISTA LEGAL CHALLENGES HAVE BEEN AIMED AT CALLING "COMPLEMENTARY ELECTONS" TO ALLOW INDIVIDUALS WHO DID NOT VOTE MAY 16 TO CAST BALLOTS. THERE IS NO PROVISION IN ELECTORAL LAW FOR SUCH "COMPLEMENTARY ELECTIONS" BUT REFORMISTAS HAVE ARGUED IN PUBLIC THAT JCE HAD POWER TO CALL SUCH ELECTIONS UNDER PROVISION OF LAW WHICH THEY CLAIMED GAVE THE JCE "EXCEPTIONAL POWER". THE LAW, THEY SAID, ALLOWS JCE "TO TAKE WHATEVER MEASURES IT
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CONSIDERS NECESSARY TO RESOLVE WHATEVER DIFFICULTY MAY APPEAR IN THE DEVELOPMENT OF THE ELECTORAL PROCESS AND TO DICTATE ALL MEASURES NECESSARY...TO OFFER THE BEST FACILITIES TO ALL CITIZENS TO EXERCISE THE RIGHT TO VOTE."

3. WELL RESPECTED LAWYERS SYMPATHETIC TO PRD WHO REVIEWED ELECTION LAW FOUND THAT THE LAW GIVES THE ABOVE SPECIFIED

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POWERS ONLY TO THE ELECTION BOARD OF THE NATIONAL DISTRICT,
(SANTO DOMINGO), NOT TO THE JCE. TO THIS, REFORMISTA LEGAL
EXPERTS, PRINCIPALLY MARINO VINICIO (VINCHO) CASTILLO, SAID
THAT THE VERSION OF THE LAW PRINTED BY THE JCE AND WIDELY CIR-
CULATED WAS INCORRECT AND THAT THE CORRECT VERSION O THE
LAW AS PRINTED IN THE NATIONAL GAZETTE OF LAST YEAR (WHEN
SEVERAL CHANGES WERE MADE IN ELECTORAL LAW) CLEARLY SHOWED
THE EXCEPTIONAL POWERS ESTABLISHED IN THE LAW WERE THOSE OF
THE JCE AND NOT THE NATIONAL DISTRICT BOARD.

4. THE "SCANDAL" DEVELOPED WHEN A GROUP OF LAWYERS, LED BY
FORMER PRESIDENT RAFAEL BONNELLY, ANNOUNCED THAT THE EDITION
OF THE OFFICIAL GAZETTE REFERRED TO BY VINCHO CASTILLO WAS
A FALSIFIED VERSION. THIS VERSION APPENDED THE PROVISION
ON EXCEPTIONAL POWERS TO THE SECTION OF THE LAW PERTAINING TO
THE JCE INSTEAD OF TO THE SECTION OF THE LAW PERTAINING TO THE
NATIONAL DISTRICT BOARD, AS IN THE ORIGINAL VERSION.
(THIS WAS DONE BY MAKING THE "EXCEPTIONAL POWERS"
PROVISION ARTICLE 2, PARA 20, OF THE ELECTION LAW,
INSTEAD OF ARTICLE 10, PARA. 12, AS IT APPEARS IN
ORIGINAL LAW.) COPIES OF THE "ORIGINAL" GAZETTE AND THE
"FALSIDIED" GAZETTE WERE PRESENTED AND WIDELY REPRODUCED
IN THE PRESS. REPORTERS ALSO CHECKED THE RECORDS
OF THE CONGRESS AND FOUND THAT THERE HAD BEEN ERASURES
MADE IN THE OFFICIAL RECORD COPIES OF THE LAW AS VOTED BY
CONGRESS CHANGING THE NUMBERS "10" AND "12" AND SUBSTI-
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TUTING THEM WITH THE NUMBERS "2" AND "20", WHICH COINCIDE
WITH LANGUAGE OF THE "FALSE" GAZETTE.

5. THE LEGAL ADVISOR'S OFFICE OF THE NATIONAL PALACE
WHICH CONTROLS THE GAZETTE ATTEMPTED TO EXPLAIN THE SITUATION
BY SAYING THAT EARLY PRINTINGS OF THE GAZETTE FOR THAT PAR-
TICULAR SESSION OF CONGRESS HAD BEEN FOUND TO HAVE TYPE-
GRAPHICAL ERRORS AND WERE LARGELY WITHDRAWN FROM CIRCULATION
AND A CORRECTED VERSION OF THE GAZETTE WAS ISSUED. HOWEVER,
SINCE THE CHANGES MADE WERE NOT TYPOGRAPHICAL AND HAD THE
EFFECT OF ATTIBUTING NEW POWERS TO THE JCE, THE LEGAL
ADVISOR'S OFFICE CAME UNDER CRITICISM BY BONNELLY AND HIS
FELLOW LAWYERS FOR ATTEMPTING TO MODIFY A LAW PASSED BY
CONGRESS.

6. "BOTH THE INTERIM CHAIRMAN AND THE SECRETARY OF THE
JCE STATED THAT THE CORRECT VERSION OF THE LAW ACCORDING
TO JCE ARCHIVES IS THAT WHICH GIVES THE "EXCEPTIONAL
POWERS" TO THE NATIONAL DISTRICT ELECTIONS BOARD.

7. ALL OF THIS HAS BEEN TAKEN BY PRD AND OTHER
OPPOSITION CIRCLES TO BE PROOF THAT A CRUDE ATTEMPT

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WAS MADE TO FALSIFY BASIC DOCUMENTS IN WHICH LAST YEAR'S
CHANGES IN THE ELECTORAL LAW WERE FORMALLY RECORDED.
THEY SAY THIS WAS ALL DONE AFTER THE MAY 16 ELECTIONS.

8. COMMENT: EMBASSY IS NOT IN A POSITION TO KNOW
WHETHER THE ATTEMPTED CHANGES IN ELECTORAL LAW DOCUMENTS
WERE AN ATTEMPT TO PERPETRATE A FRAUD IN SUPPORT OF
REFORMISTA CAMPAIGN FOR "COMPLEMENTARY ELECTIONS." THE
PALACE LEGAL ADVISOR'S OFFICE WENT TO GREAT LENGTHS TO
PROVE THAT THE AMENDED EDITION OF THE OFFICIAL GAZETTE
WAS ISSUED BEFORE THE ELECTIONS.

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ACTION ARA-14

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FM AMEMBASSY SANTO DOMINGO
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INFO AMEMBASSY CARACAS
AMEMBASSY PORT AU PRINCE

C O N F I D E N T I A L SECTION 2 OF 2 SANTO DOMINGO 3171

9. WHAT SEEMS TO HAVE HAPPENED IS THAT CONGRESS IN FACT
PASSED A LAW WHICH ERRONEOUSLY ATTRIBUTED POWERS TO THE
NATIONAL DISTRICT ELECTORAL BOARD INSTEAD OF TO THE JCE,
FOR IT IS NOT LOGICAL THAT THE NATIONAL DISTRICT BOARD
WOULD BE GIVEN EXCEPTIONAL POWERS WHICH THE JCE ITSELF
DOES NOT HAVE. HOWEVER, INSTEAD OF HAVING THE ERROR CORRECTED
BY PASSAGE OF A NEW LAW, FUNCTIONARIES IN THE LEGAL ADVISOR'S
OFFICE OF THE PALACE AND AT THE CONGRESS SIMPLY ATTEMPTED
TO "CORRECT" THE ERROR.

10. NOW THAT THE REFORMISTAS HAVE BASED THEIR LEGAL CASE
FOR "COMPLEMENTARY ELECTIONS" ON THE LAW AS IT WAS APPARENTLY
ILLEGALLY AMENDED, THEY FIND THEMSELVES IN A DIFFICULT,
NOT TO SAY, EMBARRASING SITUATION.

11. BEYOND THE STRICTLY LEGAL CONSIDERATIONS, HOWEVER,
THE REFORMISTAS APPEAR TO HAVE LOST MUCH OF THEIR CREDI-

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BILITY IN PURSUING ALLEGATIONS OF PRO-PRD FRAUD. ALTHOUGH THE CHARGES MAY BE UNFAIR TO THEM, THEY NOW APPEAR IN THE PUBLIC EYE MORE AS PERPETRATORS OF FRAUD THEN AS VICTIMS.
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Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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